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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,675	02/25/2002	Cornelis Margaretha Theodorus Maria Bongers	VERHEES 207-KFM	2574

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EXAMINER

MADSEN, ROBERT A

ART UNIT PAPER NUMBER

1761

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/018,675

Applicant(s)

BONGERS, CORNELIS  
MARGARETHA THEODORUS

Examiner

Robert Madsen

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19,20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Snow Jr. (US 3188215).

3. See column 2, lines 38-52 and Column 3, lines 9-25.

4. Claims 19,20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Virnig (US 3672916).

5. Not that the film of Virnig forms perforations during cooking at designated locations, see Figures 1 and 2, Abstract, and Column 2, line 53 to column 3, line 21.

6. Claims 23,25,29 and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Virnig (US 3672916).

7. Not that the film of Virnig forms perforations during cooking at designated locations (see Figures 1 and 2, Abstract, and Column 2, line 53 to column 3, line 21), wherein the selection of the composition of the film is selected before the food is placed in the tray (Column 3, lines 21-37, column 4, line 51 to column 5, line 16).

8. Claims 19,20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Levinson (US 4390555).
9. See Column 6, lines 14-50.
10. Claims 23-25,29, and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Levinson (US 4390555).
11. See Column 6, lines 14-50.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson as applied to claims 19 and 20, further in view of Wysocki (US 4228945)
14. Levinson teaches a cover over the perforated film (i.e. item 24 of figure 3) that is removed prior to heating to allow moisture to escape during heating (Column 6, lines 14-50) , but is silent in teaching the cover is film adhesively attached to the perforated film (i.e. item 20) or that is a different material.
15. Wysocki teaches using a adhesively attached film layer for sealing a perforated portion of a compartmented food package prior to heating that is removed during heating so that moisture is released from the package, which would be a different

material than the perforated section since it is adhesively applied(Column 1, line 53 to column 2, line 56).

16. Therefore, it would have been obvious to modify Levinson and include an adhesively attached sticker of a different material to the perforated film since Wysocki teaches using a sticker to cover a perforated food package prior to heating that is intended to be removed during heating, and one would have been substituting one conventional cover for another for the same purpose: sealing a perforated portion of a compartmented food package prior to heating that is removed during heating so that moisture is released from the package.

17. Claims 26 –28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levinson as applied to claims 19 and 20, further in view of Wysocki (US 4228945)

18. Levinson teaches a cover over the perforated film (i.e. item 24 of figure 3) that is removed prior to heating to allow moisture to escape during heating (Column 6, lines 14-50) , but is silent in teaching the cover is film adhesively attached to the perforated film (i.e. item 20) , that it is applied locally, and that it is a different material.

19. Wysocki teaches using a adhesively attached film layer for sealing a perforated portion of a compartmented food package prior to heating that is removed during heating so that moisture is released from the package, which would be a different material than the perforated section since it is adhesively applied, and that is applied over the perforated portion only, or locally(Column 1, line 53 to column 2, line 56).

20. Therefore, it would have been obvious to modify Levinson and include an adhesively attached sticker of a different material to the perforated film that is applied locally since Wysocki teaches using a sticker to cover a perforated food package prior to heating that is intended to be removed during heating, that is a different material and applied and is applied locally (i.e. over the perforated portion), and one would have been substituting one conventional cover for another for the same purpose: sealing a perforated portion of a compartmented food package prior to heating that is removed during heating so that moisture is released from the package.

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gasbarra et al. (US 4529089), Leong (US 4530440), Daswick (US 4137333), Goltso (US 4013798), Mueller et al. (US 4404241) teach compartmented food containers with wherein one compartment may be selectively gas permeable.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

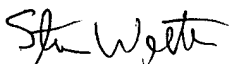
23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9310.

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24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen  
Examiner  
Art Unit 1761



  
STEVE WEINSTEIN  
PRIMARY EXAMINER  
12/15/03

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for M. Cano